

## Agricultural Marketing Service, USDA

## § 929.158

Secretary's decision. All decisions by the Secretary are final.

[FR 42614, July 11, 2000]

### § 929.142 Reserve.

(a) It is necessary and appropriate to establish and maintain a reserve in an amount not to exceed approximately one fiscal period's operational expenses to be used in accordance with the provisions of § 929.42 of the marketing agreement and this part, and

(b) Assessments collected for each of the fiscal periods ended July 31, 1963; July 31, 1965; July 31, 1966; and July 31, 1967, were in excess of expenses for such periods. The committee is hereby authorized to place excess funds in said reserve.

[28 FR 11052, Oct. 16, 1963, as amended at 32 FR 13253, Sept. 20, 1967. Redesignated at 44 FR 73011, Dec. 17, 1979]

### § 929.148 State average yield.

The State average yield pursuant to section 929.48(a)(5)(ii) is defined as the yield per State for the year 1997 or the best four years out of the last six years whichever is greater. However, if the estimated commercial sales are greater than the volume computed by this method, the Committee will use the grower's estimated commercial sales.

[65 FR 42614, July 11, 2000]

### § 929.149 Determination of sales history

A sales history for each grower shall be computed by the Committee. For growers with five years of sales history, a sales history shall be computed using an average of the highest 4 years of sales. For growers with six or more years of sales history, a sales history shall be computed using an average of the highest four of the most recent six years of sales. If these growers also have newer acreage with four years of sales history or less, and such growers can provide the Committee with credible information which would allow the Committee to segregate the sales history of the newer acreage, then that acreage shall be treated in the same manner as acreage of a grower with four years or less of sales history. For a grower with four years or less of sales history, the sales history shall be com-

puted using the highest sales season. Sales history for new acreage with no history of sales (for both new and existing growers) shall be computed according to § 929.48 of the order.

[65 FR 42615, July 11, 2000]

### § 929.150 Transfer or assignment of sales history.

(a) If indebtedness is incurred with regard to the acreage to which the cranberries are attributed, and on which a sales history is established, the sales history holder may transfer or assign the sales history solely as security for the loan. During the existence of such indebtedness no further transfer or assignment of sales history by the sales history holder shall be recognized by the committee unless the lender agrees thereto: Provided, That a copy of such loan agreement or assignment shall be filed with the committee before any right expressed therein, with regard to the sales history, shall be recognized by the committee under this paragraph (a).

(b) This regulation shall not in any way be construed to affect the right of the Secretary of Agriculture to amend, modify or terminate this regulation, or the marketing order under which it is issued as provided by law.

[34 FR 705, Jan. 17, 1969, as amended at 59 FR 36023, July 15, 1994]

### § 929.152 Delinquent assessments.

There shall be a late payment charge of five percent and an interest charge of 1½ percent per month applied to any assessment not received at the committee's office before the end of the month in which such assessment was first invoiced to the handler: *Provided*, That if an assessment is first invoiced later than the 15th of the month, no late payment or interest charge shall be levied if such assessment is received at the committee office by the end of the following month in which the assessment was first invoiced to the handler.

[60 FR 2, Jan. 3, 1995]

### § 929.158 Exemptions.

Sales of organic and fresh cranberries shall be exempt from volume regulation provisions. Handlers shall qualify